

Defendant.

ORDER


Upon preliminary review, the Court is skeptical that \$11,000 “constitutes reasonable attorney’s fees” in this case. *Barfield v. New York City Health & Hosp. Corp.*, 537 F.3d 132, 151 (2d Cir. 2008); *see also* 29 U.S.C. § 216(b) (“The Court ... shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a *reasonable* attorney’s fee to be paid by the defendant, and costs of the action.” (emphasis added))). For starters, the proposed fee is nearly three times the size of the two Plaintiffs’ awards combined. *See* Settlement Ag. 3 (providing for a \$2,500 award for Plaintiff Stephanie Brown, and \$1,600 award for Plaintiff Christopher Philips). Furthermore, even accepting that “there is no explicit limit on attorneys’ fees in FLSA actions” and “[t]he whole purpose of fee-shifting statutes is to generate attorneys’ fees that are

disproportionate to the plaintiff's recovery," *Fisher v. SD Protection Inc.*, 948 F.3d 593, 604 (2d Cir. 2020), the Court is skeptical that Plaintiffs' counsel is entitled to fees for time spent in "[c]ommunications/phone calls with potential opt-in[]" plaintiffs who did not join the action, ECF No. 40-2, at 2-3; cf. *Close-Up Int'l, Inc. v. Berov*, No. 02-CV-2363 (DGT), 2007 WL 4053682, at *6 (E.D.N.Y. Nov. 13, 2007) ("Defendants rightly note that the plaintiffs cannot seek an award for attorney's fees for time spent on other defendants." (citing *Arclightz & Films Pvt. Ltd. v. Video Palace Inc.*, 303 F. Supp. 2d 356, 364 (S.D.N.Y. 2003))).

In light of the foregoing, no later than **June 26, 2024**, the parties shall submit revised time records omitting time that Plaintiffs' attorney spent on soliciting other clients and, if appropriate, a new proposed fee award. Furthermore, the parties shall appear for a conference with the Court on **June 28, 2024**, at **11:30 a.m.** to discuss the reasonableness of the proposed attorney's fee amount and approval of the proposed settlement. The parties should join the conference by calling the Court's dedicated conference line at (888) 363-4749 and using access code 542-1540, followed by the pound (#) key.

SO ORDERED.

Dated: June 21, 2024
New York, New York



JESSE M. FURMAN
United States District Judge